

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 01/24/11	NUMBER 06.04.100
SUBJECT LIFETIME ELECTRONIC MONITORING OF SEX OFFENDERS	SUPERSEDES 06.04.100 (07/21/10)	
	AUTHORITY MCL 750.520b, 750.520c, 750.520n, 791.236, 791.285; People v Kern, COA 289478	
	ACA STANDARDS None	
	PAGE 1 OF 3	

POLICY STATEMENT:

A sex offender sentenced by the court to lifetime electronic monitoring shall be monitored in accordance with this policy and state law.

RELATED POLICIES:

06.03.105 Electronic Monitoring of Offenders

POLICY:

GENERAL INFORMATION

- A. For purposes of this policy, “electronic monitoring” means to track and record a person’s movement and location through a global positioning system (GPS) or other device.
- B. Pursuant to state law, if an offender is sentenced to prison for a violation of MCL 750.520b “Criminal sexual conduct in the first degree” or MCL 750.520c “Criminal sexual conduct in the second degree”, the sentencing court also must sentence the offender to lifetime electronic monitoring if the offense was committed on or after August 28, 2006 and, at the time of the offense, the offender was 17 years of age or older and the victim was less than 13 years of age. This mandatory sentencing also applies to a conviction for conspiracy to commit a sexual offense which requires sentencing to lifetime electronic monitoring. Field agents shall include this sentencing requirement as part of the recommended disposition in the pre-sentence investigation report whenever applicable.
- C. If an offender sentenced to jail and/or probation also is sentenced to lifetime electronic monitoring for a conviction which does not require sentencing to lifetime electronic monitoring, the appropriate Area Manager shall ensure that a letter is sent to the sentencing court, with a copy to the prosecuting attorney and offender, advising the court that sentencing to lifetime electronic monitoring is not allowed under state law for the offense for which the offender was convicted. The appropriate Area Manager shall ensure that a similar letter is sent if an offender convicted of a sex offense identified in Paragraph B is sentenced to lifetime electronic monitoring in addition to a jail and/or probation sentence; in such cases the court shall be advised that sentencing to lifetime electronic monitoring is not authorized under state law for offenders sentenced only to jail and/or probation. If a response is not received within 90 calendar days, the letter shall be resent to the sentencing court. It shall be noted in OMNI case notes whether an appropriately amended Judgment of Sentence is received. The Administrator of the Office of Parole and Probation Services, Field Operations Administration (FOA), or designee shall be notified if an appropriately amended judgment of sentence is not received.
- D. If an offender is sentenced to prison for a conviction of a sex offense requiring sentencing to lifetime electronic monitoring but is not sentenced to lifetime electronic monitoring or is sentenced to lifetime electronic monitoring for a conviction which does not require monitoring, the Records Administrator, Central Records Section, Operations Division, Correctional Facilities Administration (CFA), shall ensure that a letter is sent to the sentencing court, with a copy to the prosecuting attorney and offender, advising the court of the lifetime electronic monitoring sentencing requirement. If a response is not received within 90 calendar days, the letter shall be resent to the sentencing court. It shall be noted in

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 01/24/11	NUMBER 06.04.100	PAGE 2 OF 3
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OMNI case notes (e.g., in CFA, CFA Records Office case notes) whether an appropriately amended judgment of sentence is received.

- E. An offender who is being electronically monitored under this policy and state law who does any of the following is guilty of a felony punishable by imprisonment for not more than two years and/or a fine of not more than \$2,000; violations shall be reported in writing to the Michigan State Police:
 - 1. Intentionally removes, defaces, alters, destroys, or fails to maintain the electronic monitoring device in working order. Any maintenance of the electronic monitoring device required by the Department shall be posted on the Department's website to notify offenders of these requirements; parolees also shall be notified by the supervising agent or directly by the FOA Electronic Monitoring Center (EMC), staff.
 - 2. Fails to notify the supervising agent or, if discharged, the EMC that the electronic monitoring device is damaged.
 - 3. Fails to reimburse the Department for the actual cost of the electronic monitoring.
- F. Upon request, a court or a law enforcement agency shall be provided with information as to movement and location of an offender on lifetime electronic monitoring as well as the offender's status toward payment of the cost of electronic monitoring. A request from the court or law enforcement agency for written documentation verifying this information shall be provided as requested; the request shall not be processed as a Freedom of Information Act request unless specifically requested under that Act.
- G. When in conflict with other policy directives, this policy shall control for purposes of electronic monitoring when lifetime electronic monitoring is ordered.

ELECTRONIC MONITORING OF PAROLEES

- H. Parolees sentenced to lifetime electronic monitoring shall be placed on GPS monitoring in accordance with PD 06.03.105 "Electronic Monitoring of Offenders". Monitoring and violation reporting shall be in accordance with that policy except as specifically stated in this policy directive or implementing procedures.
- I. When the supervising agent delivers the Parole and Commutation Board Order of Discharge of Sentence (CAX-115) to the parolee, the agent also shall deliver to the parolee written notification of the continuing lifetime electronic monitoring requirements, which shall include a copy of this policy directive.

ELECTRONIC MONITORING OF DISCHARGED PRISONERS

- J. The appropriate Record Office Supervisor shall ensure that the EMC is notified at least 60 calendar days prior to the discharge date of a prisoner sentenced to lifetime electronic monitoring. The EMC shall arrange for installation of the GPS monitoring device and initiate the electronic monitoring process. Any difficulties with installation of the device or initiation of the monitoring process which cannot be resolved through the EMC or appropriate supervisory staff shall be referred to the CFA or FOA Deputy Director or designees through the appropriate chain of command for direction on how to proceed.
- K. The prisoner shall be placed on GPS monitoring immediately prior to his/her release from incarceration unless otherwise approved by the CFA and FOA Deputy Directors or designees. The appropriate Record Officer Supervisor shall ensure that the prisoner is provided written notification of the lifetime electronic monitoring requirements, which shall include a copy of this policy directive, as part of the offender's discharge processing.

REIMBURSEMENT FOR COST OF ELECTRONIC MONITORING

- L. Under state law, offenders sentenced to lifetime electronic monitoring are required to pay to the

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 01/24/11	NUMBER 06.04.100	PAGE 3 OF 3
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Department the actual cost of the electronic monitoring, regardless of ability to pay. An income review, therefore, is not required to determine the amount a parolee sentenced to lifetime electronic monitoring is required to pay as a result of this monitoring. In addition, community service cannot be performed as an alternative method of payment for those unable to pay the actual cost of reimbursement.

- M. The FOA Deputy Director shall determine the daily rate required to be paid by offenders who are being electronically monitored under this policy. The rate established shall be posted on the Department's website to notify offenders of the daily rate to be used to calculate the amount of their annual payment; also posted shall be the calendar payment date by which the annual payment is due, how payment is to be remitted, and a contact number if the offender has any questions. The Administrator of the Bureau of Fiscal Management, Operations Support Administration, shall ensure that, at the end of each year, the amount that each offender has not paid toward the annual required reimbursement is reported to the Michigan State Police; this only applies if the offender is not under Department supervision.
- N. Parolees also shall be notified by the supervising agent of the rate established pursuant to Paragraph M and how payment is to be remitted while under supervision; payments shall be verified and collected as set forth in PD 06.02.105 "Offender Reimbursement." If all required reimbursement is not paid by the parolee's discharge from supervision, the Administrator of the Bureau of Fiscal Management shall ensure that the amount owed is reported to the Department of Treasury for collection and to the Michigan State Police.

PROCEDURES

- O. The FOA Deputy Director and Wardens shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive; procedures shall be completed within 60 calendar days after the effective date of this policy directive. This includes ensuring that existing procedures and manuals are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed.

AUDIT ELEMENTS

- P. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: RMM 01/21/11